

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 597 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL  
and  
Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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STATE OF GUJARAT

Versus

STATE BANK OF SUARASHTRA & 5  
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Appearance:

MS NANDINI JOSHI, AGP for Petitioner  
NOTICE SERVED for Respondent No. 1, 2, 3, 4, 5, 6  
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CORAM : MR.JUSTICE J.M.PANCHAL  
and  
MR.JUSTICE M.C.PATEL

Date of decision: 19/10/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE J.M.PANCHAL)

In this Revision Application which is filed under Section 115 of the Code of Civil Procedure, 1908, the State of Gujarat has challenged the order dated October 18, 1993 passed by the learned 2nd Joint Civil Judge (Senior Division), Bhavnagar in Court Fees Reference No.213/91 whereby the prayer made by the Inspecting Officer, Court Fees, Bhavnagar to direct the respondent no.1 to pay deficit court fee stamps of Rs.1860/- is rejected.

2. The respondent No.1 bank has instituted Special Civil Suit No.213/99 in the Court of learned 2nd Joint Civil Judge (Senior Division), Bhavnagar against respondent nos.2 to 6 for recovery of amount of loan advanced to them with interest. The Inspecting Officer, Court Fees, Bhavnagar had examined the plaint with a view to finding out whether proper fees had been paid therein. The officer found that as the main borrower had taken different kinds of loans on different dates at different rates of interest thereon and distinct causes of action were clubbed together in one suit, the respondent no.1 was liable to pay total court fees of Rs.7160/-. He therefore submitted a report under Section 12(3) of the Bombay Court Fees Act, 1959 (the 'Act' for short) and prayed the court to direct the respondent no.1 to pay deficit court fee stamps of Rs.1860/-.

3. The court fee reference made by the Inspecting Officer, Court Fees, Bhavnagar was contested by the respondent no.1 contending inter alia that where a bank advances money to an individual under different banking facilities, Court Fee is payable on the total amount payable under all the facilities and not on individual items and therefore, the reference should be rejected.

4. The learned 2nd Joint Civil Judge (Senior Division), Bhavnagar has rejected the court fee reference by order dated October 18, 1993 which has given rise to the present Revision Application.

5. The Revision Application was placed for admission hearing before the court (Coram: D.G. Karia, J.) on April 19, 1996 and the learned Single Judge had passed the following order:-

"Admit.

In 35(2) G.L.R. page 1738, the learned Single Judge of this Court (B.C. Patel, J.) took the view that the causes of action arising out of different contracts executed on different dates and clubbed together, it would be difficult to accept the contention that the court-fees cannot be levied as provided in section 18 of the Bombay Court Fees Act, 1959; the Court ought to have levied the court-fees after evaluating the subject-matter separately. The contrary view is taken in 36(2) G.L.R. 1089 by N.J. Pandya, J. that under section 8 of the Suits Valuation Act, 1887 and the Bombay Court Fees Act, 1959, for the purposes of Court's jurisdiction, Sec.8 of the Suits Valuation Act would govern the field of the court fees payable; Where a Bank advances money to an individual under different banking facilities, Court fee is payable on the total amount payable under all the facilities and not on individual items and the court-fee will be required to be paid accordingly.

In view of this conflicting decisions,  
the Civil Revision Application be referred to the Division Bench."

In view of the direction given by the learned Single Judge, this Revision Application is placed before us for disposal. We have heard the learned counsel for the parties. In State of Gujarat vs. The State Bank of Saurashtra and another [1994 (2) GLR 1738], a learned Single Judge of this court had taken the view that where on different dates, different types of loans repayable with different rate of interest are granted, the court fees cannot be levied, as provided under Section 18 of the Act but the court has to levy the court fees after evaluating different subject matters separately. In Indian Bank vs. M/s. Advance Art Silk Private Ltd. and Others [1995 (2) GLR 1089], another learned Single Judge of this court had taken the view that where a bank advances money to an individual under different banking facilities, the Court Fee is payable on the total amount payable under all the facilities and not on individual items. The learned counsel for the respondents has

brought to the notice of this court decision of Division Bench rendered in the State of Gujarat vs. Bank of Baroda and Others [1997 (1) GLH 43] and submitted that in view of the decision of the Division Bench, the Revision Application should be dismissed. A perusal of the reported decision of the Division Bench makes it manifest that the view taken by the learned Single Judge in State of Gujarat vs. The State Bank of Saurashtra and another [1994 (2) GLR 1738] is specifically overruled. The Division Bench after construing the provisions of Section 18 of the Bombay Court Fees Act, 1959, Section 8 of the Suits Valuation Act, 1887 and Order 2 Rule 3 read with Order 7 Rule 1 of Code of Civil Procedure, 1908 has held that where a bank advances money to an individual under different banking facilities, Court Fee is payable on the total amount payable under all the facilities and not on individual items. After placing reliance on the Full Bench decision of the Bombay High Court in Hiralal Motichand vs. Ganpat Lahani and Others [AIR 1922 Bombay 376], the Division Bench has ruled that the opening of three accounts and entering into three different contracts do not constitute different causes of action or different subject matter and court fee is payable on the total amount payable under all the facilities and not on individual items. The learned counsel for the petitioner has not pointed out any binding decision which has taken the view contrary to one expressed by the Division Bench of this court in the State of Gujarat vs. Bank of Baroda and Others (supra). Having regard to the principles laid down by the Division Bench of this court in the State of Gujarat vs. Bank of Baroda and Others (supra), we are of the opinion that the Revision Application has no substance and deserves rejection.

6. For the foregoing reasons, the Revision Application fails and is dismissed. Rule is discharged with no orders as to cost.

( J.M. Panchal, J. )

( M.C. Patel, J. )

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